



ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

23 December 3, 2013

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Los Angeles County
Board of Supervisors

December 03, 2013

Gloria Molina
First District

Mark Ridley-Thomas
Second District

Zev Yaroslavsky
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

Mitchell H. Katz, M.D.
Director

Hal F. Yee, Jr., M.D., Ph.D.
Chief Medical Officer

Christina Ghaly, M.D.
Deputy Director, Strategic Planning

**APPROVAL OF AMENDMENT NO. 1 TO AGREEMENT NO. H-705186 FOR
PATIENT CENTERED MEDICAL HOME POPULATION MANAGEMENT
REGISTRY
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

**CIO RECOMMENDATION: APPROVE (X) APPROVE WITH MODIFICATION
()
DISAPPROVE ()**

313 N. Figueroa Street, Suite 912
Los Angeles, CA 90012

Tel: (213)240-8101
Fax: (213) 481-0503

www.dhs.lacounty.gov

SUBJECT

*To ensure access to high-quality,
patient-centered, cost-effective health
care to Los Angeles County residents
through direct services at DHS facilities
and through collaboration with
community and university partners.*

Request approval of an Amendment with i2i Systems, Inc. (i2i Systems) to accept payment responsibilities from Local Initiative Health Authority d.b.a L.A. Care Health Plan (L.A. Care) for the continued provision of maintenance and support of i2iTracks software, a patient centered medical home population management registry, and further customization of the software.

IT IS RECOMMENDED THAT THE BOARD:

1. Authorize the Director of Health Services (Director), or his designee, to execute Amendment No. 1 to Agreement No. H-705186 (Agreement) with i2i Systems, Inc. (i2i Systems) to transfer the payment obligations from L.A. Care to the County, commencing upon execution by both parties with an annual maintenance fee of \$50,070 for each annually renewed term up to a maximum of seven years, and an additional payment of up to a maximum amount of \$150,000 during the term of the Agreement and any renewal periods, for requested customization of i2iTracks to enhance its functionality.



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2. Delegate authority to the Director, or his designee, to amend the Agreement to: (i) increase the sum annually by no more than ten percent above the annual maintenance fee, for an additional annual amount of \$5,007; (ii) increase the customization maximum amount by ten percent for the provision of unforeseen and unanticipated expenses for an additional one-time amount of \$15,000; and (iii) perform administrative changes to the Agreement, including but not limited to the addition, modification, or removal of any relevant terms and conditions to clarify terms and conditions and otherwise comply with changes in applicable law.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the first recommendation will transfer the payment obligations, duties, and responsibilities from L.A. Care to the County. L.A. Care will no longer continue payment of the Software and will require the Department of Health Services (DHS or Department) to assume responsibility for the remaining payment provisions that have not yet been assigned in the Agreement.

The first recommendation will amend the Software License Agreement and related Maintenance and Support Agreement for the provision of continued maintenance and support for a Patient-Centered Medical Home (PCMH) population management registry, i2iTracks (Software), currently used at DHS facilities, with an annual maintenance fee of \$50,070, and for additional pre-identified Software customizations, with a maximum amount of \$150,000 during the term of the Agreement and any renewal periods. These customizations will further expand the scope of the Software's current functionality and address the clinical needs of DHS staff.

Approval of the second recommendation allows the Director to increase the annual maintenance fee and requested customization maximum obligation by no more than ten percent for unanticipated and unforeseen expenses, including, but not limited to, additional work that includes customizations, modifications, and/or development of system improvements to the existing Software, or to meet any changes as required by State or Federal law. The second recommendation will also allow the Director to amend the Agreement to account for any administrative changes to the Agreement, including, but not limited to the addition, modification, or removal of any relevant terms and conditions. Such delegated authority will enable DHS to proactively address any ongoing areas of improvement, comply with any statutory and regulatory changes, and refine the Software during the renewal terms.

In October 2011, DHS obtained the patient management registry to meet the Section 1115 Medicaid Demonstration Waiver (Waiver) requirements and its associated funding. DHS has implemented a patient centered medical home model (PCMH) management registry throughout its facilities as part of the Waiver's requirements pertaining to delivery system reform, in order to improve the health of the County's patient population, to manage chronic diseases, to facilitate empanelment and manage empaneled patients, coordinate patient care and support system-wide improvements in health care quality and patient outcomes. Moreover, as part of DHS' transition to the PCMH model, DHS clinicians use the Software as a central tool for PCMH care teams to improve patient outcomes.

Continued access to this Software will allow DHS clinicians throughout multiple disciplines to coordinate patient care, seamlessly to improve their patients' quality of health actively, and to allow DHS to continue customizing the Software to address identified areas of improvement. In the past year, DHS has aggressively pursued a variety of system-wide improvements. As of September 2013, over 290,000 empaneled patients have been loaded into i2iTracks. The Software is now used by all

Ambulatory Care Network PCMH care teams to review patient information and be alerted to “care gaps.”

Implementation of Strategic Plan Goals

The recommended actions support Goal 1, Operational Effectiveness and Goal 3, Integrated Services Delivery of the County’s Strategic Plan.

FISCAL IMPACT/FINANCING

The annual maintenance fee for FY 2013-14 is \$50,070. DHS may spend up to an additional \$5,007 during each one year term. There is also a one-time additional amount for requested customization of \$150,000, plus an additional \$15,000 to account for unanticipated expenses, for FY 2013-14, and any subsequent renewal periods during which the additional work is performed.

Funding is included in DHS’ Fiscal Year 2013-14 Final Budget, and will be requested in future fiscal years.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On September 6, 2011, the Board authorized DHS to execute an Agreement with the L.A. Care to accept contract assignment rights related to the license grant and other benefits from i2i Systems, as well as contract rights with modification to the County’s standard contract provisions with respect to mutual indemnification, modification of terms with respect to capitation of liability, and some other provisions to acquire the Software. The assignment, which was executed on November 22, 2011, included all of L.A. Care’s agreement rights with i2i Systems under the Software License Agreement (no term) and related Maintenance and Support Agreement (one year term with successive one year renewals), except for payment responsibilities. The Maintenance and Support Agreement was renewed through October 21, 2014. DHS is seeking Board approval to amend the Agreements since L.A. Care will no longer pay for maintenance and support starting January 10, 2014.

County Counsel has approved the Amendment (Exhibit I) as to form. The Chief Information Office concurs with the Department’s recommendations and that Office’s Analysis is attached (Attachment A).

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommendations will allow DHS to continue to comply with Waiver requirements and to continue improvements in health care delivery, coordination and integration of patient care, and management of the patient population and chronic diseases.

Respectfully submitted,

Handwritten signature of Mitchell H. Katz in black ink.

Mitchell H. Katz, M.D.

Director

Handwritten signature of Richard Sanchez in black ink, with the word "DIRECTOR" printed above the signature.

RICHARD SANCHEZ

Chief Information Officer

MHK:jl

Enclosures

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors



RICHARD SANCHEZ
CHIEF INFORMATION OFFICER

Office of the CIO
CIO Analysis

NUMBER:

CA13-24

DATE:

11/7/2013

SUBJECT:

**APPROVAL OF AMENDMENT NO. 1 TO AGREEMENT NO. H-705186 FOR PATIENT CENTERED
MEDICAL HOME POPULATION MANAGEMENT REGISTRY**

RECOMMENDATION:

Approve Approve with Modification Disapprove

CONTRACT TYPE:

New Contract Sole Source
 Amendment to Agreement #: H-705186 Other:

CONTRACT COMPONENTS:

Software Hardware
 Telecommunications Professional Services

SUMMARY:

Department Executive Sponsor: **Mitchell H. Katz, M.D., Director of Health Services**

DESCRIPTION:

Authorize the Director of Health Services to execute Amendment No. 1 to Agreement No. H-705186 (Agreement) with i2i Systems, Inc. (i2i Systems) to transfer the payment obligations from L.A. Care to the County, commencing upon execution by both parties with an annual maintenance fee of \$50,070 for each contract term, renewable annually, with a maximum contract amount of \$150,000 for additional required customizations to i2iTracks (Software) until the completion of work.

Delegate authority to the Director to amend the Agreement to increase the Agreement amount for unforeseen and unanticipated service needs as follows: (i) by no more than ten percent above \$50,070 for a potential increase of \$5,007; (ii) customizations by no more than ten percent above the base customization fee of \$150,000 for a potential increase of \$15,000 for the term of the Agreement; and (iii) perform administrative changes to the Agreement, including but not limited to the addition, modification, or removal of any relevant terms and conditions.

Agreement Amount: **\$200,070**

Funding Source: **DHS Operating Budget Fiscal
Year 2013-14**

 Legislative or Regulatory Mandate Subvened/Grant Funded:

<p>Strategic and Business Analysis</p>	<p>PROJECT GOALS AND OBJECTIVES:</p> <p>i2iTracks (Software) is a population management registry that has been implemented and is currently being utilized by the Ambulatory Care Network and the hospital-based primary care clinics. The Software assists DHS clinical staff to manage high risk patients and chronic diseases. DHS' goal is to augment ongoing maintenance and support services to include enhancements to the Software's functionality. Another key project goal is to continue meeting the requirements of Section 1115 Waiver.</p>
	<p>BUSINESS DRIVERS:</p> <p>The key business drivers for the project are:</p> <ol style="list-style-type: none"> 1. Section 1115 Waiver Compliance. Clinician use of the Software is necessary to continue meeting Section 1115 Waiver requirements and its associated funding, to strengthen participating public hospital systems in California. In order for DHS to meet the requirements of the Delivery System Reform Incentive Pool (DSRIP) of Section 1115 Wavier requirements and effectively report attainment of these requirements, a registry must be implemented in a timely manner. 2. Healthcare Delivery System Improvements. The Software is a central tool for DHS clinical staff, and is used by Patient-Centered Medical Homes (PCMH) to manage and track chronic diseases for DHS patients on a population-wide basis. It automates manual tracking and improves patient outreach workflows.
	<p>PROJECT ORGANIZATION:</p> <p>The DHS Business Application Owner is Geoffrey Scheib, R.N., of the Ambulatory Care Network's Research & Innovations Division. The DHS Project Executive Sponsor is Jeffrey Guterman, M.D. The Software supports interfaces from the Enterprise Data Repository. IT Manager is John Mendoza.</p>
	<p>PERFORMANCE METRICS:</p> <p>The Software is designed to manage populations of patients and the Software analytics, alert providers as to patients who have "Care Gaps" (i.e., preventive care measures that should be addressed, but have not been). These indicators align with the DSRIP and Healthcare Effectiveness Data and Information Set (HEDIS) measures upon which DHS is scored.</p> <p>These metrics are used not only for reporting but actually driving change in the preventive care process. One example is the first DHS-wide preventive care effort, targeting more than 8,000 women who were overdue for mammography.</p>

	<p>STRATEGIC AND BUSINESS ALIGNMENT: The project supports Goal 1, Operational Effectiveness and Goal 3, Integrated Services Delivery of the County’s Strategic Plan.</p> <hr/> <p>PROJECT APPROACH: Phase I of the project, which entailed the software installation and implementation at DHS, concluded on April 16, 2012. DHS is currently implementing enhancements to infrastructure, interface, and other facility sub-projects as part of Phase II, which began in December 2012. Phase III requirements are currently being developed. The Software system has been updated (via version releases) to incorporate several feature enhancements requested by DHS, since the original installation.</p> <hr/> <p>ALTERNATIVES ANALYZED: This is an amendment to a current agreement. Prior to obtaining this system, the current DHS IT systems, including the hospital information system, were assessed and determined inadequate to provide this functionality.</p>
<p>Technical Analysis</p>	<p>ANALYSIS OF PROPOSED IT SOLUTION:</p> <p>Functionality: The Software is a population health intelligence system which integrates data from existing electronic systems, such as Quadramed Affinity (the hospital information system), lab systems, pharmacy systems, immunization registries, and other identified systems aggregating the data about the tracked patient population.</p> <p>The Software system allows DHS patient care teams the ability to be proactive in the managing the patients. The Software system allows DHS patient care teams the ability to view data to uncover differences in populations by patient age, race, gender, provider, location, and multiple clinical measures. Once a group is identified, DHS patient care teams can follow-up with the appropriate care to improve the clinical outcomes of the patient population.</p> <p>The Software system also provides staff and management with evidence-based decision support through its integrated on-demand reporting and patient search engine.</p> <p>Application Architecture: The Software is a client-server application which is accessed via a rich client Microsoft Window application connected to a central Microsoft SQL</p>

Server database. The client software can be installed on the local client PC's or accessed remotely using Windows Terminal Server or Citrix.

The Software was originally accessed via local software clients loaded on designated workstations and is in the process of transitioning to a thin client implementation utilizing Terminal Server. Transition anticipated to be completed by the forth quarter of 2013.

Hardware Architecture:

The Software relies on Microsoft SQL Server 2005, or greater, Standard Edition (x64 Edition) for its data structures. The Software is compatible with most Virtual Host/Virtual Machine (VH/VM) environments, including:

- VMWare Server and Server ESXi;
- XenServer by Citrix; and
- Microsoft Hyper-V Server (2005, 2008).

i2i Systems requires Terminal Server or Citrix for implementation of the Software over a wide area network (WAN) to remote locations. The Software databases (production, training, and test) are currently hosted at the DHS data center.

For local users (LAN), a high-speed network connection to the Software server is required (100 Megabyte or Gigabyte Ethernet cards). In general, a T-1 (1.5MB) line will offer about 25-50 concurrent terminal sessions.

<p>Financial Analysis</p>	<p>BUDGET:</p> <p>Contract costs:</p> <p>Software License \$170,000</p> <p>Interfaces..... \$77,200</p> <p>Professional Services..... \$8,000</p> <p>Training \$32,500</p> <p>Cost of Base Term..... \$287,700 (10/21/11 – 10/20/12)</p> <p>Cost of 1st Renewal Term \$49,440 (10/21/12 – 10/20/13)</p> <p>Cost of Amendment 1:</p> <p>Requested Customizations..... \$150,000(till completion of work)**</p> <p>Maintenance (annual)..... \$50,070**</p> <p>Contract sum \$200,070</p> <p>Total sum for the contract \$537,210</p> <p>**Optional Increase ten percent, \$15,000 for customization, \$5,007 for annual maintenance.</p>
	<p>RISK MITIGATION:</p> <ol style="list-style-type: none"> 1. No major risks foreseen as this is an extension of an existing Agreement. 2. The Chief Information Security Officer (CISO) reviewed the Agreement and did not identify any IT security or privacy related issues.
<p>CIO Approval</p>	<p>PREPARED BY:</p> <p></p> <hr/> <p>Sanmay Mukhopadhyay, Sr. Associate CIO</p> <p style="text-align: right;">11/14/13 Date</p> <hr/> <p>APPROVED:</p> <p></p> <hr/> <p>Richard Sanchez, County Chief Information Officer</p> <p style="text-align: right;">11-20-13 Date</p>

Please contact the Office of the CIO (213.253.5600 or info@cio.lacounty.gov) for questions concerning this CIO Analysis. This document is also available online at <http://ciointranet.lacounty.gov/>

AMENDMENT NO. 1 TO SOFTWARE LICENSE AGREEMENT H-705186

This Amendment to Software License Agreement (the "Amendment") is made and entered into on the ___ day of December 2013 (the "Effective Date") between i2i Systems, Inc., a California corporation having its principal place of business at 3663 N. Laughlin Rd., Ste. 200, Santa Rosa, CA 95403 ("i2iSystems") and Los Angeles County, through its Department of Health Services, having its principal place of business at 313 N. Figueroa Street, Suite 317, Los Angeles, California 90012 ("County"). Either party may be referred to individually as the "Party" or collectively as "the Parties."

WHEREAS:

i2i Systems, Inc. ("i2i Systems, "Licensor," or "Company") and the Local Initiative Health Authority for Los Angeles County, a local public agency d.b.a. L.A. Care Health Plan ("LA Care"), entered into the Software License Agreement on October 21, 2011 (the "Original Agreement");

LA Care assigned its rights and obligations under the Original Agreement to County ("Customer") on November 22, 2011, specifically excluding the rights and obligations under Section VII and Schedules D and D-1 of the Original Agreement and Section V of Schedule B of the Original Agreement, which were retained by LA Care;

County now seeks to assume the ongoing maintenance and support payment obligations set forth in Schedule B (Maintenance and Support Agreement) and Schedule D (Fees) of the Original Agreement; to obtain further customization of the software to enhance its functionality; and to revise the Original Agreement in order to make other updates and revisions to the schedules; and

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the Parties agree to the following:

1. Assume Maintenance and Support Payment Obligations

The Parties hereby agree that as of the Effective Date of this Amendment, County will assume from LA Care payment of all future maintenance and support i2iSystems set forth under Schedule B and Schedule D of the Original Agreement. For the avoidance of doubt, i2iSystems consents to County's assumption of LA Care's payment obligations hereunder.

2. Replace Customizations Clause in Maintenance and Support Agreement

The Parties agree to delete Section II(a)(4) from Schedule B, and replace it with a new Section II(a)(4), which states as follows:

Requested Customizations. Upon approval by Company and Customer, Company will perform the customizations to the Software requested by Customer ("Requested Customizations"). An estimated cost of the Requested Customization work is attached hereto as Schedule B-3 and incorporated by reference, and Customer has approved the enumerated per project cost as the defined not-to-exceed amount for each project listed in Schedule B-3. Any additional Requested Customization work which exceed the cost listed in Schedule B-3 shall be approved by Customer in writing and shall utilize and be

capped by the Not-to-Exceed Amount Total for Requested Customizations, attached as Schedule B-4 and incorporated by reference. Any unused portion of said Not-to-Exceed Amount Total for Requested Customizations may be transferred to the Not-to-Exceed Amounts for Optional Work, subject to execution of a change notice or amendment by the Parties.

Company will provide the final specifications for each Requested Customization projects, along with the final delivery date and payment schedule for the work, subject to the Not-to-Exceed Amount for Requested Customizations for each such project. The totals of the invoices submitted by Company to Customer for all Requested Customizations shall not exceed the Not-to-Exceed Amount Total set forth in Schedule B-4.

3. Add New Optional Work Sub-subsection into Support Services Section of Maintenance and Support Agreement

The Parties agree to add a new Section II(a)(6) to Schedule B, which states as follows:

Optional Work. Upon written request of Customer; Company's approval of such request; and the execution of a change notice or amendment by the Parties, Company shall provide the following to Customer as Optional Work: (i) any professional services required by Customer which go beyond the scope of the support services, and/ or (ii) the development of new functionality, interfaces, tools, customizations, and other products related to the Software which are not already provided for under the Original Agreement or the Requested Customizations. The cost of any Optional Work shall be capped by the Not-to-Exceed Amount for Optional Work as attached in Schedule B-4.

Upon receipt of any request and Company's initial approval of the request, Company will furnish to Customer a written quotation for the requested Optional Work, which shall include "estimated number of hours" and "not to exceed number of hours" for work, and the hourly rate for services in accordance with Section V(e), out-of-pocket expenses, and any other charges which will be incurred in the performance of the work. Upon Customer's acceptance of the amount in the written quotation, then the Parties shall execute an amendment or change notice to Schedule B, which shall incorporate by reference the final specifications for the requested Optional Work and a statement of work for the project which accomplishes the following:

- (a) provides a functional description of the work to be performed under the amendment;
- (b) provides a description of all tasks and deliverables;
- (c) provides a completion schedule for all tasks and deliverables, including a final delivery date for completed work;
- (d) provides a payment schedule for all tasks and deliverables, subject to the Not-To-Exceed Amount for Optional Work; and

(e) provides a description and estimated cost of applicable hardware, third party software, or other materials required to complete the work.

Upon completion and delivery by Company and acceptance by Customer of any completed Optional Work, the Optional Work shall become part of the Software and subject to the terms of the Original Agreement. In no event shall the Customer be liable or responsible for payment of Optional Work that has not been accepted. The Parties agree that Optional Work involving customizations may result in an increase to the annual service fee.

4. **Insert Revised Payment Subsection into Payments Section of Maintenance and Support Agreement**

The Parties agree to delete Section V(d) from Schedule B, and replace it with a new Section V(d), which states as follows:

Invoices and Payments. Customer will not be responsible for making any payments pursuant to this Agreement until it has first received an invoice from Company for the applicable payment due. In the event Customer disputes an invoice, Customer will notify Company of any disputed amounts included on the invoice within twenty (20) business days of receipt of each invoice. Customer will have thirty (30) days from the receipt of an invoice or corrected invoice, if disputed by Customer, to pay Company.

All invoices under this Agreement shall be submitted in two (2) copies to the following address:

County of Los Angeles – Department of Health Services
Enterprise Project Management Office
313 N. Figueroa Street, Room 326
Los Angeles, CA 90012
Attn: Andres Trinidad, Project Manager

All invoices submitted by the Company for payment must have the written approval of Customer prior to any payment thereof. In no event shall the Customer be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld. Customer will pay Company within thirty (30) days from the date of approved invoice.

5. **Insert New Rate for Optional Work Subsection into Payments Section of Maintenance and Support Agreement**

The Parties agree to add a new Section V(e), which states as follows:

Rate for Optional Work. The charge for new Optional Work services agreed upon by the Parties shall be the applicable services rates, which are One Hundred Seventy-Five Dollars (\$175.00) per hour for professional services and Two Hundred Dollars (\$200.00) per hour for customizations. The total amount of any new Optional Work services shall not exceed the Not-to-Exceed Amount for Optional Work as set forth in Schedule D-4, and shall be in accordance with Section II(a)(6). Company shall submit invoices in accordance with the agreed

upon payment schedule for the services as reflected in the applicable amendment and statement of work.

6. Delete Schedule of Fees and Insert Replacement Schedule of Fees

The Parties agree to delete Schedule D from the Original Agreement and replace it with a new, updated Schedule D, which reflects the support and maintenance fee for the next renewal period and is attached to this Amendment and incorporated by reference.

7. Delete Business Associate Agreement and Insert Replacement Business Associate Agreement

The Parties agree to delete Schedule E from the Original Agreement and replace it with a new, updated Schedule E-1, which is attached to this Amendment and incorporated by reference. All references to Schedule E shall be replaced by Schedule E-1.

8. Terms of Original Agreement Otherwise Remain in Full Force & Effect

Except as otherwise set forth herein, all other terms and conditions of the Original Agreement shall remain in full force and effect as written. In the event of a conflict between the terms and conditions of the Original Agreement and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall control.

IN WITNESS WHEREOF, the respective Parties have caused this Amendment to be executed in duplicate by their duly authorized representatives.

“i2i Systems”

“County”

I2i Systems, Inc.

Los Angeles County, Department of Health Services

Name:

Name:

Printed Name: Janice Nicholson

Printed Name: Mitchell H. Katz, M.D.

Title: President and CEO

Title: Director

Date:

Date:

**EXHIBIT B-3
REQUESTED CUSTOMIZATIONS**

Group	Description	Estimated No. of Hours	Estimated Amount	Not-To-Exceed No. of Hours	Not-To-Exceed Amount	General Scope of Work
Alerts	Allow the user to acknowledge and clear an alert independent of the related profile item data. The goal is to be able to acknowledge an alert and clear it even if the data that triggered the alert is not available (i.e., a postpone feature)	20	\$ 4,000.00	40	\$ 8,000.00	Design, build and test new functionality that allows alerts to be independently cleared or postponed (snoozed) from all screens where alerts appear.
Alerts	Profile Item Schedules should have more configurability, similar to GroupWise recurring appointments. Can occur on a recurring schedule or allow user to pick specific relative dates that an event should occur. For example, Developmental Screening at age 9 mo, 18 mo, and once between 2-3 years.	40	\$ 8,000.00	80	\$ 16,000.00	Design, build and test outgoing message functionality that allows DHS to integrate with other third party tools such as decision support engine, medication management, patient caller, etc. Additionally, allow incoming message functionality to populate data in i2iTracks.
External System Communication	System shall be able to call external programs and pass appropriate parameters bi-directionally. I2i shall be able to consume web service parameters and data which in turn trigger established i2i functions. For example, if there is a function of i2i that creates Follow-ups we can pass an external message that triggers i2i to create a Follow-up.	90	\$18,000.00	180	\$ 36,000.00	
MPI	Provide the ability to support multiple local patient identifiers (i.e., Affinity MRUN's at each facility) for a given patient unified under a unique patient identifier.	60	\$12,000.00	130	\$ 26,000.00	
Reporting	Create a single dynamic PVS that can be used for all pts. and reflect their clinical profile accurately. Allow the customization of pre-configured Patient Visit Summaries similar to the customization available in user created Patient Visit Summaries. The current static templates could serve as default configurations for organizations that do not want to customize the standard template.	60	\$12,000.00	100	\$ 20,000.00	
Reporting	For Population Analytic Reports and Dashboards, provide a report multi-item with a library of default providers and a library of locations. The report does not need to be exportable.	20	\$ 4,000.00	40	\$ 8,000.00	Design, build and test enhancement to profile item schedules allowing the user to specify relative dates that a schedule should occur.
Security/Access	Enhance User Permissions with more granular levels of permission: No Access; Access; Add; Add/Edit; and Add/Edit/Delete	15	\$ 3,000.00	30	\$ 6,000.00	
	TOTALS	305	\$61,000.00	600	\$120,000.00	

**SCHEDULE B-4
Not-to-Exceed Amounts**

Requested Customizations *¹			
1	Requested Customizations in Schedule B-3		\$120,000
2	Contingency Amount for unanticipated increases to the estimated hours in Schedule B-3		\$30,000
	NOT-TO-EXCEED AMOUNT Total		\$150,000

NOT-TO-EXCEED AMOUNTS for Optional Work *²			
	Description		Not-to-Exceed Amount
1	for Optional Work (including additional customizations and Professional Services not included in Requested Customizations)		\$15,000 (one time amount)
2	Unused Contingency Amount for Requested Customizations		(amount TBD if any)
3	for increases to the Annual Service Fee (for Maintenance and Support)		\$5,007 per renewal term * ³

¹ Refers to the Requested Customizations as set forth in Section II(a)(4) of Schedule B - Maintenance and Support Agreement.

² The hourly rates for Optional Work are set forth in Section V(e) of the Schedule B - Maintenance and Support Agreement.

³ This amount applies for each renewal term. Any unused portion of this amount during a renewal term does not rollover to a subsequent renewal term.

Schedule D FEES

Description		Qty	Unit Cost	Total	Payment Due Date
Licenses					
i2iTracks Enterprise License	Base Software with Unlimited Simultaneous Users, implementation, and an elective of 5 days of on-site training.	1	\$170,000.00	\$170,000.00	Due upon execution of Agreement and receipt of invoice
Licenses Total			\$170,000.00		
Interfaces					
i2i Links – Electronic Data Repository (EDR)	Interface to the Electronic Data Repository (EDR) via i2i standard HL7 interface.	1	\$50,000.00	\$50,000.00	Due within 30 days following the Installation Date and receipt of Invoice.
Lab Interface – HL7	Lab data from multiple sources.	1	\$20,000.00	\$20,000.00	
Immunization Interface – CAIR	CAIR Immunization Interface.	1	\$7,200.00	\$7,200.00	
Interfaces Total			\$77,200.00		
Professional Services					
i2i Professional Services – Business Analyst	40 hrs of data analysis work.	40	\$200.00	\$8,000.00	Due upon delivery of services within 30 days following receipt of Invoice.
Services Total			\$8,000.00		
Training					
i2i University – Onsite Training	One day of on-site training & consulting without prepaid travel expenses included.	15	\$1,500.00	\$22,500.00	Due upon delivery of services within 30 days following receipt of Invoice.
Training Travel Expense	Travel expenses for training.	20	\$500.00	\$10,000.00	
Training Total			\$32,500.00		

TOTAL ONE-TIME COSTS					
	Total: (already paid in full)		\$287,700.00		
	Payment Schedule				
	License fee due with signed contract		\$170,000.00		
	Due on installation		\$77,200.00		
	Due on delivery		\$40,500.00		

ANNUAL SERVICE FEE: Annual Support and Maintenance Fee					
Renewal Term 2013-2014	Total: (includes the following)		\$50,070.00		
	- i2iTracks Enterprise License		\$34,000.00		
	- i2iLinks EDR		\$10,000.00		
	- Lab Interface – HL7		\$4,000.00		
	- Immunization Interface – CAIR		\$1,440.00		
	- EyePACs Interface		\$630.00		
	Due on the Effective Date of the Renewal Term and six months thereafter		\$25,035.00		
Term 2011-2012	Total: (already paid in full)		\$49,440.00		
Renewal Term 2012-2013	- Due 90 days after PMS/EHR installation		\$24,720.00		
	- Due every six months thereafter		\$24,720.00		

**BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access,

receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

1. DEFINITIONS

1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.

1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.

- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.
- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S. C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.
- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who

- qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 162.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or Purchase Order or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.
- 1.21 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
- 1.22 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)

1.23 Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.

2. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.

2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.

2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.

2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures.

2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.

2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.

3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered

Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.

- 3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION

- 4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- 4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.

5. REPORTING NON-PERMITTED USES OR DISCLOSURES, SECURITY INCIDENTS, AND BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION

- 5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3.
 - 5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.
 - 5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.
 - 5.1.3 Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.
- 5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.

5.2.1 Business Associate shall make an immediate telephonic report upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that includes any available information about the following:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
- (d) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach

5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than three (3) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **Chief HIPAA Privacy Officer at: Chief HIPAA Privacy Officer, Kenneth Hahn Hall of Administration, 500 West Temple Street, Suite 525, Los Angeles, California 90012, HIPAA@auditor.lacounty.gov**, that includes, any available information about the following:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
- (d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;

- (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
- (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
- (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and
- (h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.

5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.

5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.

5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 60 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

6. WRITTEN ASSURANCES OF SUBCONTRACTORS

6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.

6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.

6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by

which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.

- 6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.
- 6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.
- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

7. ACCESS TO PROTECTED HEALTH INFORMATION

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.
- 7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.
- 7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record

Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

8. AMENDMENT OF PROTECTED HEALTH INFORMATION

8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.

8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:

- (a) The date of the Disclosure;
- (b) The name, and address if known, of the entity or person who received the Protected Health Information;
- (c) A brief description of the Protected Health Information Disclosed; and
- (d) A brief statement of the purpose of the Disclosure.

9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure.

- 9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity, information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528
- 9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

10. COMPLIANCE WITH APPLICABLE HIPAA RULES

- 10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).
- 10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.

11. AVAILABILITY OF RECORDS

- 11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.
- 11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

12. MITIGATION OF HARMFUL EFFECTS

- 12.1 Business Associate shall mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

13. BREACH NOTIFICATION TO INDIVIDUALS

- 13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors, provide

breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.

13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.

13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:

- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
- (b) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
- (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
- (e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.

13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

14. INDEMNIFICATION

14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims,

actions, fees, costs, expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California; provided that, however, Covered Entity shall (a) promptly notify Business Associate of any claim subject to indemnification (provided that the failure to promptly notify shall only relieve Business Associate of its indemnification obligation to the extent that such failure materially impacts Business Associate's response or defense; (b) gives Business Associate the right to control and direct the defense and settlement of any such claim, as long as the settlement does not include any financial obligation or admission of liability for Covered Entity; and (c) cooperates fully with Business Associate for the defense of any such claim.

14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

15. BUSINESS ASSOCIATE'S TOTAL CUMULATIVE LIABILITY UNDER THIS BUSINESS ASSOCIATE AGREEMENT SHALL NOT EXCEED ONE MILLION DOLLARS (\$1,000,000). OBLIGATIONS OF COVERED ENTITY

15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.

15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

16. TERM

16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

16.2 Notwithstanding Section 16.1, Business Associate's obligations and the terms set forth under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

17. TERMINATION FOR CAUSE

17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.

17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION

18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.

18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.

18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information

for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.

- 18.3.1 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.
- 18.3.2 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.
- 18.4 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

19. AUDIT, INSPECTION, AND EXAMINATION

- 19.1 Covered Entity reserves the right to conduct no more frequently than once per year a reasonable inspection of the facilities, systems, information systems, books, records, agreements, and policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, that gives rise to Contractor's status as a Business Associate, as provided for in section 17.
- 19.2 Covered Entity and Business Associate shall mutually agree in advance upon the scope, timing, and location of any such inspection. Covered Entity shall be responsible for all audit-related expenses..).
- 19.3 At Business Associate's request, and to the extent permitted by law, Covered Entity shall execute a nondisclosure agreement, upon terms and conditions mutually agreed to by the parties.
- 19.4 That Covered Entity inspects, fails to inspect, or has the right to inspect as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the

HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.

- 19.5 Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or Audit and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, that gives rise to Contractor's status as a Business Associate.

20. MISCELLANEOUS PROVISIONS

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.
- 20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.